

SENATE BILL No. 129

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.5; IC 13-21-7-1; IC 14-33-7-1; IC 36-9-25-14.

Synopsis: Special taxing district property. Provides that certain special taxing districts or a municipality having a municipally owned utility may not tax property for purposes related to the special taxing district or the utility unless the property is served by the district or the utility.

Effective: July 1, 2004.

Antich

January 6, 2004, read first time and referred to Committee on Utility and Regulatory Affairs.

C
o
p
y



Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 129

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1.5-2-26 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 26. (a) To pay the
3 principal and interest on bonds issued for the construction, acquisition,
4 extension, or improvement of a municipally owned utility, the
5 municipal legislative body may levy an annual tax of sufficient amount
6 on all taxable property of the municipality **that is served by the**
7 **municipally owned utility for which the bonds are issued.**

8 (b) If the legislative body:

9 (1) has contracted with a person for supplying utility services or
10 has agreed to lease or purchase utility services; and

11 (2) has, in the contract, agreed to pay a stated rental, a stipulated
12 purchase price, or other compensation to the person, or has issued
13 bonds to pay for stock in the company or to purchase the plant;
14 it may levy an annual tax for payment of the rent or other consideration
15 or purchase price to be paid for utility services, or for the purchase
16 price of a plant, and to pay the principal and interest on the bonds.

17 (c) The tax under this section shall be levied and collected as other



C
o
p
y

1 municipal taxes are levied and collected, and the proceeds shall be
2 used only for the purpose for which the tax was levied.

3 SECTION 2. IC 8-1.5-4-3, AS AMENDED BY P.L.170-2002,
4 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2004]: Sec. 3. The department of waterworks has jurisdiction
6 over a special taxing district (referred to as "the waterworks district" in
7 this chapter) that consists of:

- 8 (1) in the case of a second class city located in a county having a
9 population of more than one hundred seventy thousand (170,000)
10 but less than one hundred eighty thousand (180,000), all the
11 territory within that county **that is served by the waterworks;** or
12 (2) in the case of any other municipality, all the territory ~~within~~
13 ~~the corporate boundaries of the municipality; or the territory~~
14 served by the waterworks, **if whether the territory is** larger or
15 smaller than the corporate boundaries **of the municipality.**

16 SECTION 3. IC 8-1.5-5-5 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) The legislative
18 body shall, in the ordinance adopting the provisions of this chapter,
19 create a special taxing district that includes the following:

- 20 (1) For a consolidated city, all of the territory of the county
21 containing the consolidated city **that receives storm water**
22 **collection and disposal services from the department.**
23 (2) For all other municipalities, all territory within the corporate
24 boundaries of the municipality **that receives storm water**
25 **collection and disposal services from the department.**

26 (b) As to each municipality to which this chapter applies, including
27 a consolidated city, all the territory within the district constitutes a
28 special taxing district for the purpose of providing for the collection
29 and disposal of storm water of the district in a manner that protects the
30 public health and welfare and for the purpose of levying special benefit
31 taxes for purposes of storm water collection and disposal. All area in
32 the district and all area added to the district is considered to have
33 received a special benefit from the storm water collection and disposal
34 facilities of the district equal to or greater than the special taxes
35 imposed on the area by this chapter in order to pay all or part of the
36 costs of such facilities.

37 SECTION 4. IC 13-21-7-1 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) A special taxing
39 district is established in each solid waste management district
40 established under IC 13-21-3 or IC 13-9.5-2 (before its repeal) for the
41 purpose of providing persons within the district with solid waste
42 management service.

C
o
p
y



(b) The special taxing district ~~is coterminous with the territory of~~
consists of property that is:

(1) located in; and

(2) served by;

the **solid waste management** district.

SECTION 5. IC 14-33-7-1 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) All the real
 property in the district **that is served by the conservancy district**,
 except the property that is exempt under section 4 of this chapter,
 constitutes a taxing district for the purpose of levying special benefit
 taxes to pay for the following:

(1) The expenses of establishing the district.

(2) General preliminary and administrative expenses.

(3) The expenses of preparing the district plan.

(4) The expenses of putting the district plan into operation by
 constructing the necessary works.

(5) The expenses of operating and maintaining the district.

(b) The special tax:

(1) equals the amount of benefits received; and

(2) must be based on return for the benefits.

SECTION 6. IC 36-9-25-14 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) As to each
 municipality to which this chapter applies:

(1) all the territory included within the corporate boundaries of
 the municipality **that is served by the department of the**
municipality; and

(2) any territory, town, addition, platted subdivision, or unplatted
 land lying outside the corporate boundaries of the municipality
 that has been taken into the district in accordance with a prior
 statute, the sewage or drainage of which discharges into or
 through the sewage system of the municipality;

constitutes a special taxing district for the purpose of providing for the
 sanitary disposal of the sewage of the district in a manner that protects
 the public health and prevents the undue pollution of watercourses of
 the district.

(b) Upon request by:

(1) a resolution adopted by the legislative body of another
 municipality in the same county; or

(2) a petition of the majority of the resident freeholders in a
 platted subdivision or of the owners of unplatted land outside the
 boundaries of a municipality, if the platted subdivision or
 unplatted land is in the same county;

C
o
p
y



the board may adopt a resolution incorporating all or any part of the area of the municipality, platted subdivision, or unplatted land into the district.

(c) A request under subsection (b) must be signed and certified as correct by the secretary of the legislative body, resident freeholders, or landowners. The original shall be preserved in the records of the board. The resolution of the board incorporating an area in the district must be in writing and must contain an accurate description of the area incorporated into the district. A certified copy of the resolution, signed by the president and secretary of the board, together with a map showing the boundaries of the district and the location of additional areas, shall be delivered to the auditor of the county within which the district is located. It shall be properly indexed and kept in the permanent records of the offices of the auditor.

(d) In addition, upon request by ten (10) or more interested resident freeholders in a platted or unplatted territory, the board may define the limits of an area within the county and including the property of the freeholders that is to be considered for inclusion into the district. Notice of the defining of the area by the board, and notice of the location and limits of the area, shall be given by publication in accordance with IC 5-3-1. Upon request by a majority of the resident freeholders of the area, the area may be incorporated into the district in the manner provided in this section. The resolution of the board incorporating the area into the district and a map of the area shall be made and filed in the same manner.

(e) In addition, a person owning or occupying real property outside the district may enter into a sewer service agreement with the board for connection to the sewage works of the district. If the agreement provides for connection at a later time, the date or the event upon which the service commences shall be stated in the agreement. The agreement may impose any conditions for connection that the board determines. The agreement must also provide the amount of service charge to be charged for connection if the persons are not covered under section 11 of this chapter, with the amount to be fixed by the board in its discretion and without a hearing.

(f) All sewer service agreements made under subsection (e) shall be recorded in the office of the recorder of the county where the property is located. The agreements run with the property described and are binding upon the persons owning or occupying the property, their personal representatives, heirs, devisees, grantees, successors, and assigns. Each recorded agreement that provides for the property being served to be placed on the tax rolls shall be certified by the board to the

**C
O
P
Y**



auditor of the county where the property is located. The certification must state the date the property is to be placed on the tax rolls, and upon receipt of the certification together with a copy of the agreement, the auditor shall immediately place the property certified upon the rolls of property subject to the levy and collection of taxes for the district. An agreement may provide for the collection of a service charge for the period services are rendered before the levy and collection of the tax.

(g) Except as provided in subsection (i), sewer service agreements made under subsection (e) must contain a provision that persons (other than municipalities) who own or occupy property agree for themselves, their executors, administrators, heirs, devisees, grantees, successors, and assigns that they will:

(1) neither object to nor file a remonstrance against the proposed annexation of the property by a municipality within the boundaries of the district;

(2) not appeal from an order or a judgment annexing the property to a municipality; and

(3) not file a complaint or an action against annexation proceedings.

(h) This section does not affect any sewer service agreements entered into before March 13, 1953.

(i) Subsection (g) does not apply to a landowner if all of the following conditions apply:

(1) The landowner is required to connect to a sewer service because a person other than the landowner has polluted or contaminated the area.

(2) The costs of extension of service or connection to the sewer service are paid by a person other than the landowner or the municipality.

SECTION 7. [EFFECTIVE JULY 1, 2004] IC 8-1.5-2-26, as amended by this act, applies only to levies first due and payable after December 31, 2004. However, to the extent that the amendment of IC 8-1.5-2-26 by this act would impair the rights of bondholders of bonds:

(1) payable from levies imposed under IC 8-1.5-2-26; and

(2) issued before July 1, 2004;

IC 8-1.5-2-26 (as effective before July 1, 2004) continues to apply to levies first due and payable after December 31, 2004.

SECTION 8. [EFFECTIVE JULY 1, 2004] To the extent that the amendment of IC 8-1.5-4-3 by this act would impair the rights of bondholders of bonds:

(1) payable from levies imposed under IC 8-1.5-4-19; and

C
o
p
y



(2) issued before July 1, 2004;
 IC 8-1.5-4-3 (as effective before July 1, 2004) continues to apply to
 levies first due and payable after December 31, 2004.

SECTION 9. [EFFECTIVE JULY 1, 2004] To the extent that the
 amendment of IC 8-1.5-5-5 by this act would impair the rights of
 bondholders of bonds:

(1) payable from:

(A) user fees assessed and collected under IC 8-1.5-5-7; or

(B) levies imposed under IC 8-1.5-5-22; and

(2) issued before July 1, 2004;
 IC 8-1.5-5-5 (as effective before July 1, 2004) continues to apply to
 levies first due and payable after December 31, 2004.

SECTION 10. [EFFECTIVE JULY 1, 2004] To the extent that the
 amendment of IC 13-21-7-1 by this act would impair the rights of
 bondholders of bonds:

(1) payable from levies imposed under IC 13-21-7-9; and

(2) issued before July 1, 2004;
 IC 13-21-7-1 (as effective before July 1, 2004) continues to apply to
 levies first due and payable after December 31, 2004.

SECTION 11. [EFFECTIVE JULY 1, 2004] To the extent that the
 amendment of IC 14-33-7-1 by this act would impair the rights of
 bondholders of bonds:

(1) payable from levies imposed under IC 14-33-9; and

(2) issued before July 1, 2004;
 IC 14-33-7-1 (as effective before July 1, 2004) continues to apply to
 levies first due and payable after December 31, 2004.

SECTION 12. [EFFECTIVE JULY 1, 2004] To the extent that the
 amendment of IC 36-9-25-14 by this act would impair the rights of
 bondholders of bonds:

(1) payable from levies imposed under IC 36-9-25-19; and

(2) issued before July 1, 2004;
 IC 36-9-25-14 (as effective before July 1, 2004) continues to apply
 to levies first due and payable after December 31, 2004.

C
o
p
y

